

Central Intelligence Agency



Washington, D C 20505

OCA88-0038
13 January 1988

HR 2091

The Honorable Frank R. Wolf
House of Representatives
Washington, DC 20515

Dear Mr. Wolf:

This is in response to your request for the views of the Central Intelligence Agency on H.R. 2091, Special Pay Rates and Civil Service Improvements Act of 1987.

As you are aware, Federal service has become less desirable as pay and employee benefits have not kept pace with the private sector. Title I of this legislation expands the pay range for positions presenting hiring and retention difficulties and also expands the factors deemed to be causing these recruitment and retention problems. Special rate employees are to receive annual pay increases and periodic step increases in a similar manner to General Schedule employees. Incentives for qualified individuals who choose to work for and remain with the Federal Government are provided through the establishment of bonuses not to exceed \$10,000.

We have learned from the Office of Management and Budget (OMB) that the Office of Personnel Management (OPM) finds these provisions acceptable as a substitute to section 5 of the Administration's proposed Civil Service Simplification Act of 1987. However, OPM strongly objects to Titles II and III of the bill, which pertain to miscellaneous Civil Service amendments and health benefits, respectively. Moreover, OPM believes that the Administration must support the Civil Service Simplification Act and not simply a modified version of its pay component. Accordingly, we must follow OMB's and OPM's lead with regard to this proposed legislation.

We hope the above information will be of assistance to you. We appreciate the opportunity to present our views on this legislation.

Sincerely,

A rectangular box containing a redacted signature.

David D. Gries
Director of Congressional Affairs

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Distribution by slm: 19 January 1988

Original - Addressee

- STAT
- 1 - OCA/LEG Subject File: Misc. Personnel File
 - 1 - [redacted] (CAP/OP)
 - 1 - [redacted] liaison
 - 1 - D/OCA
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 - 1 - OCA Registry
 - 1 - RH Signer
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29 June 1987

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MEMORANDUM FOR:

[Redacted]

Legislation Division
Office of Congressional Affairs

STAT

THROUGH:

[Redacted]

Deputy Director of Personnel for
Policy, Analysis, & Evaluation

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FROM:

[Redacted]

Policy, Analysis, & Evaluation, OP

SUBJECT:

Special Pay and Civil Service Improvements
Act of 1987, S. 987/H.R. 2091

1. This is to confirm our conversation in which I provided OP's views on the National Aeronautics and Space Administration's (NASA) comments regarding the effect the referenced legislation would have on NASA.

2. As previously stated, we support NASA's comments and opinion regarding the positive impact this bill would have on personnel issues. Although the CIA is exempt from most provisions of this legislation, we have some features similar to the ones proposed that are already incorporated in our personnel system pursuant to our sections 8 and 4 authorities. In addition, we strongly support the personnel initiatives espoused by this legislation since we are in the process of designing a new human resources management and compensation system which features similar benefits, e.g. retention bonuses.

3. In our review of this proposed legislation, we noticed some technical amendment oversights in section 1308 of the bill, which corrects the method of calculating an annuity reduced to provide a survivor benefit for a spouse acquired after retirement. The technical amendments to section 8339 of title 5, United States Code, do not include certain clauses and subparagraphs that also need to be corrected. Thus, we recommend the following changes in the amendatory language: on page 30, line 5, by inserting "and clause (vi)" immediately after "clause (iii)". On page 30, lines 6 and 7, after "clause (iii)" insert "and clause (v) as clause (iv)". On page 30, line 12, add the letter "s" to the word "subparagraph" so as to make it plural and insert "and (D)" after "(C)".

4. If you should have any questions, please contact the undersigned on secure [Redacted]

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~~ADMINISTRATIVE~~ INTERNAL USE ONLY

100TH CONGRESS
1ST SESSION

H. R. 2091

To improve the pay and management of employees of the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 1987

Mr. WOLF introduced the following bill; which was referred to the Committee on
Post Office and Civil Service

A BILL

To improve the pay and management of employees of the
Federal Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Special Pay and Civil
5 Service Improvements Act of 1987".

6 TITLE I—SPECIAL PAY 7 AUTHORITY

8 SEC. 1101. AUTHORITY RELATING TO HIGHER RATES OF PAY

9 (a) IN GENERAL.—Title 5, United States Code, is
10 amended by striking out section 5303 and inserting in lieu
11 thereof the following:

1 **“§ 5303. Higher minimum rates**

2 “(a)(1) Subject to paragraph (2) of this subsection, when
3 the Director of the Office of Personnel Management finds
4 that recruitment or retention of well-qualified individuals for
5 agency positions described in paragraph (3) of this subsection
6 is or is likely to become significantly handicapped because of
7 any condition described in paragraph (4) of this subsection,
8 the Director may establish, for one or more areas or locations
9 where the condition exists, higher minimum rates of basic
10 pay. The Director may establish such higher minimum rates
11 for one or more grades or levels, occupational groups, series,
12 or classes, or subdivisions thereof, and may make correspond-
13 ing increases in all step rates of the pay range for each grade
14 or level for which the higher minimum rates are so
15 established.

16 “(2) A minimum rate established for any grade or level
17 under paragraph (1) of this subsection may not exceed the
18 rate of pay for a position under level V of the Executive
19 Schedule described pursuant to section 5316.

20 “(3) The positions referred to in paragraph (1) of this
21 subsection are positions paid under—

22 “(A) section 5332 of this title;

23 “(B) the pay scales for employees in the Depart-
24 ment of Medicine and Surgery, Veterans’ Administra-
25 tion, under chapter 73 of title 38; or

1 “(C) section 403 of the Foreign Service Act of
2 1980.

3 “(4) The conditions referred to in paragraph (1) of this
4 subsection are as follows:

5 “(A) The rates of pay paid Federal Government
6 employees of an agency in positions referred to in such
7 paragraph are lower than the rates of pay paid Federal
8 Government employees in similar positions in the same
9 agency or other agencies.

10 “(B) The rates of pay paid Federal Government
11 employees in positions referred to in such paragraph
12 are lower than the rates of pay paid employees of em-
13 ployers other than the Federal Government in similar
14 positions.

15 “(C) The working conditions for employees in po-
16 sitions referred to in such paragraph are undesirable.

17 “(D) The positions referred to in such paragraph
18 are in a remote geographic location.

19 “(5) In making findings under paragraph (1) of this sub-
20 section, the Director of the Office of Personnel Management
21 shall consider the number of employees who have applied for
22 retirement in an agency or will soon be eligible to apply for
23 retirement, at the time the Director is making findings under
24 paragraph (1), the rate of turnover in positions, vacancies in
25 positions, the length of time necessary to recruit individuals

1 to fill vacancies, the undesirable nature or environment of the
2 work, any marked decline in the quality of employee appli-
3 cants, and any other information the Director determines
4 appropriate.

5 “(b)(1) The head of an agency may request the Director
6 of the Office of Personnel Management to establish higher
7 rates of basic pay under subsection (a) of this section for any
8 positions in such agency. The Director shall transmit to the
9 head of the agency a response to such request within 45 days
10 after the date on which the head of an agency transmits the
11 request to the Director.

12 “(2) Any request under paragraph (1) of this subsection
13 shall specify the period, not to exceed 2 years, for which the
14 head of an agency anticipates that the exercise of the author-
15 ity under subsection (a) of this section is necessary to miti-
16 gate the problem specified in the request.

17 “(c) Any exercise of authority under subsection (a) of
18 this section may—

19 “(1) be reviewed by the Director of the Office of
20 Personnel Management once each year; and

21 “(2) terminate on the earlier of—

22 “(A) the last day of the period specified in
23 the request for such exercise of authority made
24 under subsection (b) of this section; or

1 “(B) the date on which the Director of the
2 Office of Personnel Management makes a written
3 determination that the exercise of such authority
4 is no longer necessary to mitigate the problem
5 specified in such notification.

6 “(d) A rate of pay established with respect to a position
7 pursuant to the authority under subsection (a) of this section
8 shall remain in effect after the termination of the exercise of
9 such authority under subsection (c) of this section, unless
10 such position is vacant on the date on which the exercise of
11 such authority terminates or, if the position is then filled by
12 any individual, until the beginning of any break in the service
13 of such individual.

14 “(e) After the termination of the application of a higher
15 minimum rate of basic pay established under subsection (a) of
16 this section with respect to any position, the rate of basic pay
17 payable to an employee, while serving in such position with-
18 out a break in service in such position (except for a period of
19 leave without pay) on and after the day before the date of
20 such termination, may not be reduced by reason of such
21 termination.

22 “(f)(1) Subject to paragraph (2) of this subsection, the
23 rates of basic pay established under subsection (a) of this sec-
24 tion may be revised, within the limits of that subsection, by
25 the Director of the Office of Personnel Management. Revi-

1 sions under this paragraph shall have the force and effect of
2 law.

3 “(2) If the rates of pay under the General Schedule are
4 increased pursuant to section 5305 of this title in any fiscal
5 year, then, not later than the effective date of the increase in
6 such rates, each rate of pay in effect for a position under
7 subsection (a) of this section on September 30 of the preced-
8 ing fiscal year shall be increased by any percentage that is
9 not less than the overall percentage of such increase in the
10 General Schedule rates of pay. Nothing in this paragraph
11 prohibits more than one increase in such rate of pay during
12 any fiscal year.

13 “(g) The Director of the Office of the Personnel Man-
14 agement shall prescribe procedures for converting positions
15 covered by the pay rate system administered under this sec-
16 tion to the General Schedule, the performance management
17 and recognition system under chapter 54 of this title, the
18 Senior Executive Service, or another appropriate pay rate
19 system.

20 “§ 5303a. Periodic increases

21 “(a) Except as provided in subsection (b) of this section,
22 each individual who is paid a rate established under section
23 5303 of this title and who has not reached the maximum rate
24 of pay for the grade or level of such individual's position shall

1 be advanced in pay in the same manner as is provided in
2 section 5335 of this title.

3 “(b) An individual referred to in subsection (a) who is
4 serving in pay rate 1, 2, or 3 shall be advanced in pay suc-
5 cessively to the next higher rate within the pay range in-
6 volved at the beginning of the next pay period following the
7 completion of such period of service, not to exceed 52 calen-
8 dar weeks.

9 “(c) The head of an agency may waive the application of
10 this section in the case of—

11 “(1) any group of employees of the agency who
12 are participating in a demonstration project under
13 chapter 47 of this title; or

14 “(2) any other group of employees of the agency,
15 as determined appropriate by the head of such agency.

16 **“§ 5303b. Bonus payments**

17 “(a)(1) Under regulations prescribed by the Director of
18 the Office of Personnel Management, the head of an agency
19 may provide for recruitment and retention bonus payments
20 under this section—

21 “(A) to employees serving in positions for which
22 the minimum rate of basic pay has been established
23 under section 5303 of this title;

1 “(B) to employees whose responsibilities include
2 the regular supervision of any employee paid at a rate
3 established under section 5303 of this title; or

4 “(C) subject to the approval of the Director of the
5 Office of Personnel Management, to any other employ-
6 ees of such agency.

7 “(2) A bonus payment under this section shall be equal
8 to an amount, not to exceed \$10,000, determined by the
9 head of the agency making such payment.

10 “(b)(1) A payment may not be made to an individual
11 under this section unless such individual has entered into an
12 agreement with the head of the agency employing such indi-
13 vidual which provides that—

14 “(A) such individual will continue in the service of
15 the agency for a period of time determined under para-
16 graph (2) of this subsection; and

17 “(B) if separated (except by reason of a reduction
18 in force) from the agency before the end of the period
19 agreed to, such individual will repay to the Govern-
20 ment any amounts paid to such individual under this
21 section.

22 “(2) The period of service applicable under paragraph
23 (1) of this subsection may not—

24 “(A) be less than 6 months; and

25 “(B) exceed 3 years.

1 “(3) If an individual fails to repay any amount required
2 under paragraph (1)(B) of this subsection, such amount is re-
3 coverable by the Government from the individual or the
4 estate of such individual by—

5 “(A) setoff against accrued pay, compensation,
6 amount of retirement credit, or other amount due the
7 individual from the Government; and

8 “(B) any other method provided by law for the re-
9 covery of amounts owed to the Government.

10 Notwithstanding the preceding sentence, the head of the
11 agency concerned may, under the regulations issued under
12 subsection (a) of this section, waive in whole or in part a
13 right of recovery under this subsection if it is shown that the
14 recovery would be against equity and good conscience or
15 against the public interest.

16 “(c) The full amount of a bonus under this section shall
17 be paid, whether in a lump sum or in the form of periodic
18 payments, before the end of the period of service agreed to
19 under subsection (b) of this section.

20 “(d) A payment under this section is not part of the
21 basic pay of an individual.

22 **“§ 5303c. Advances of pay**

23 “(a) Under regulations prescribed by the Director of the
24 Office of Personnel Management, an agency head may pro-
25 vide for the advance payment of basic pay, covering not more

1 **“§ 3329. Appointment procedures in areas with recruit-**
2 **ment or retention problems**

3 “(a) Under regulations prescribed by the Director of the
4 Office of Personnel Management, the head of an agency may
5 make selections and appointments on an expedited basis to
6 fill any vacant position for which the minimum rate of basic
7 pay is established under section 5303 of this title.

8 “(b) The regulations prescribed under this section may
9 include procedures under which individuals may apply to an
10 agency directly and an individual may be selected for ap-
11 pointment to a position from among those so applying.”

12 (b) **TECHNICAL AMENDMENT.**—The table of sections
13 for chapter 33 of title 5, United States Code, is amended by
14 adding after the item relating to section 3328 the following:

“3329. Appointment procedures in areas with recruitment or retention problems.”

15 **SEC. 1103. SERVICE FOLLOWING TRAINING.**

16 (a) **IN GENERAL.**—Section 4108 of title 5, United
17 States Code, is amended by redesignating subsections (b), (c),
18 and (d) as subsections (c), (d), and (e), respectively, and by
19 inserting after subsection (a) the following:

20 “(b)(1) An employee selected for—

21 “(A) appointment to a position for which the mini-
22 mum rate of basic pay is established under section
23 5303 of this title; and

24 “(B) training by, in, or through a Government fa-
25 cility under this chapter,

1 shall enter into a written agreement (described in paragraph
2 (2) of this subsection) with the Government before the ap-
3 pointment and assignment for training are made.

4 Notwithstanding the preceding sentence, the head of the
5 agency making the appointment may waive the requirement
6 for a written agreement in any case if an agreement in such
7 case would not be in the interest of such agency or any other
8 public interest.

9 “(2) A written agreement entered into by an employee
10 under paragraph (1) of this subsection shall include provisions
11 which require such employee—

12 “(A) to continue in the service of the employee’s
13 agency after the end of the employee’s training period
14 for at least 3 times the length of such training period
15 or 12 months, whichever is greater, unless the employ-
16 ee is involuntarily separated from the service of such
17 agency; and

18 “(B) to pay to the Government the amount of the
19 additional expenses incurred by the Government in
20 connection with training such employee if the employee
21 is separated from the service of the employee’s agency
22 before the end of the period for which the employee
23 has agreed to continue in the service of such agency.

24 Notwithstanding the preceding sentence, the head of such
25 agency may waive in whole or in part a right of recovery

1 under this paragraph if it is shown that the recovery would
2 be against equity and good conscience or against the public
3 interest.

4 “(3) This subsection applies with respect to a period of
5 training only if such training is for a period of four weeks or
6 longer.”.

7 (b) CONFORMING AMENDMENTS.—(1) Subsection (c) of
8 section 4108 of title 5, United States Code, as redesignated
9 by subsection (a), is amended by inserting “or (b)(1)” after
10 “subsection (a)(2)”.

11 (2) The first sentence of subsection (d) of such section,
12 as redesignated by subsection (a), is amended by striking out
13 “subsection (b)” and inserting in lieu thereof “subsection
14 (c)”.

15 **SEC. 1104. ELIMINATION OF GS-11 THRESHOLD FOR CERTAIN**
16 **PAY AUTHORITY.**

17 Section 5333(a) of title 5, United States Code, is
18 amended by striking out “in GS-11 or above” in the second
19 sentence.

20 **SEC. 1105. SIMILAR RATES OF PAY AMONG LAW ENFORCE-**
21 **MENT PERSONNEL.**

22 (a) RATES OF PAY.—The Director of the Office of Per-
23 sonnel Management should, to the greatest degree practica-
24 ble, prescribe rates of pay for law enforcement officers that—

1 (1) establish similar rates of pay for all law en-
2 forcement officers employed in similar positions; and

3 (2) considers the degree of difficulty, danger, and
4 any other factor the Director determines appropriate.

5 (b) DEFINITION.—For purposes of this section, the term
6 “law enforcement officer” shall have the same meaning as
7 such term is defined pursuant to section 8401(17) of title 5,
8 United States Code.

9 (c) LIMITATION.—Nothing in the provisions of this sec-
10 tion may be construed to reduce the rate of pay of any law
11 enforcement officer.

12 **SEC. 1106. SIMILAR RATES OF PAY AMONG HEALTH CARE**
13 **PERSONNEL.**

14 (a) RATES OF PAY.—The Director of the Office of Per-
15 sonnel Management should, to the greatest degree practica-
16 ble, prescribe rates of pay for employees of the Federal Gov-
17 ernment serving in health care positions similar to rates of
18 pay for health care positions to which chapter 73 of title 38,
19 United States Code, applies.

20 (b) LIMITATION.—Nothing in the provisions of this sec-
21 tion may be construed to reduce the rate of pay of any person
22 described in subsection (a).

1 **SEC. 1107. APPROPRIATIONS LIMITATION.**

2 The administration of the provisions of this title and the
3 amendments made by this title shall be to such extent or in
4 such amounts as are provided in appropriations Acts.

5 **SEC. 1108. EFFECTIVE DATE.**

6 The amendments made by this title shall take effect 120
7 days after the date of the enactment of this Act.

8 **SEC. 1109. REPORTING REQUIREMENT.**

9 The Comptroller General—

10 (1) shall monitor the implementation of the
11 amendments made by this title to determine their effec-
12 tiveness in dealing with recruitment and retention
13 problems and to identify any abuses of authority; and

14 (2) shall submit an annual report to Congress in
15 writing with respect to any findings under paragraph

16 (1).

17 **TITLE II—MISCELLANEOUS CIVIL**
18 **SERVICE AMENDMENTS**

19 **SEC. 1201. RETIREMENT CREDIT FOR LEAVE WITHOUT PAY.**

20 (a) **CIVIL SERVICE RETIREMENT AND DISABILITY**
21 **SYSTEM.**—Section 8332(f) of title 5, United States Code, is
22 amended by inserting “an employee participating in the Ex-
23 ecutive Exchange Program established by Executive Order
24 12394, dated December 5, 1986,” after “service,” in the last
25 sentence.

1 (b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

2 The last sentence of section 8411(d) of title 5, United States
3 Code (as added by section 101(a) of the Federal Employees'
4 Retirement System Act of 1986 (Public Law 99-335; 100
5 Stat. 523)), is amended by striking "credit" and inserting in
6 lieu thereof. "Except for an employee participating in the
7 Executive Exchange Program established by Executive
8 Order 12394, dated December 5, 1986, credit"

9 SEC. 1202. THE SENIOR EXECUTIVE SERVICE.

10 (a) REMOVAL.—Section 3592(b) of title 5, United
11 States Code, is amended—

12 (1) in paragraph (1) by inserting "or (3)" after
13 "paragraph (2)"; and

14 (2) by inserting after paragraph (2) the following
15 new paragraph:

16 "(3) For the purpose of applying paragraph (1) of this
17 subsection to any career appointee, the number of days that
18 such career appointee is detailed to a position other than the
19 position to which the career appointee is assigned shall not be
20 counted in determining the number of days that have elapsed
21 since an appointment referred to in subparagraph (A) or (B)
22 of such paragraph."

23 (b) SETTING INDIVIDUAL SENIOR EXECUTIVE PAY.—

24 Section 5383(a) of title 5, United States Code, is amended by
25 adding at the end the following: "Such criteria may not in-

1 clude a formal or informal classification of the position at a
2 particular Senior Executive Service pay level.”.

3 (c) PERFORMANCE AWARDS.—Section 5384(a) of title
4 5, United States Code, is amended by adding at the end the
5 following new paragraph:

6 “(3) Except as provided in section 5383(b) of this title,
7 payment of a performance award under this section and an
8 award under section 4507 of this title may not be restricted
9 on the basis that both such awards relate to the same per-
10 formance period.”.

11 (d) TRAVEL AND TRANSPORTATION EXPENSES.—Sec-
12 tion 5724(a) of title 5, United States Code, is amended—

13 (1) by striking out “and” at the end of paragraph

14 (1);

15 (2) by striking out the period at the end of para-
16 graph (2) and inserting in lieu thereof “; and”; and

17 (3) by adding at the end the following:

18 “(3) upon the separation of a career appointee (as
19 defined in section 3132(a)(4) of this title), the travel ex-
20 penses of that individual, the transportation expenses of
21 the immediate family of such individual, and the ex-
22 penses of moving (including transporting, packing, crat-
23 ing, temporarily storing, draying, and unpacking) the
24 household goods of such individual and personal effects
25 not in excess of 18,000 pounds net weight, to the

1 place where the individual will reside (or, if the indi-
2 vidual dies before the travel, transportation, and
3 moving is completed, to the place where the family
4 will reside), if such individual—

5 “(i) has previously been transferred in the in-
6 terest of the Government from one official station
7 or agency to another for permanent duty during
8 the term of Government employment of such indi-
9 vidual; and

10 “(ii) is eligible to receive an annuity upon
11 such separation under the provisions of subchapter
12 III of chapter 83 or of chapter 84 of this title.”.

13 **SEC. 1203. EMPLOYEE ALLOWANCES.**

14 (a) **REMOTE WORKSITE ALLOWANCE.**—Section 5942
15 of title 5, United States Code, is amended to read as follows:

16 **“§ 5942. Allowance based on duty at remote worksites**

17 “(a) Notwithstanding section 5536 of this title, an em-
18 ployee of an Executive department or an independent estab-
19 lishment who is assigned to duty, except temporary duty, at a
20 remote worksite is entitled to receive an allowance under this
21 section. The allowance payable to an employee under this
22 section is in addition to pay otherwise payable to such
23 employee.

24 “(b) The Director of the Office of Personnel Manage-
25 ment shall prescribe in regulations the amount or amounts

1 authorized to be paid as an allowance under this section and
2 the sites, areas, and groups of positions to which each such
3 amount applies.

4 “(c) For the purposes of this section, the term ‘remote
5 worksite’ means a worksite that is so remote from the near-
6 est established communities or suitable places of residence as
7 to require an appreciable degree of expense, hardship, and
8 inconvenience, exceeding that which is normally encountered
9 in metropolitan commuting, for an employee who is commut-
10 ing to and from his residence and such worksite.”.

11 (b) UNIFORM ALLOWANCE.—(1)(A) Section 5901(a) of
12 title 5, United States Code, is amended by striking out
13 “\$125” each place it appears and inserting in lieu thereof
14 “\$400”.

15 (B) Section 5902 of title 5, United States Code, is
16 amended to read as follows:

17 **“§ 5902. Increase in maximum uniform allowance**

18 “(a) Notwithstanding the provisions of section 5901,
19 each of the respective maximum uniform allowances for the
20 respective categories of employees to whom uniform allow-
21 ances are paid under section 5901 of this title shall be in-
22 creased by the percentage increase in the consumer price
23 index for July of the year in which the determination is made
24 above the consumer price index for July of the preceding
25 year.

1 “(b) For the purposes of this section, the term ‘con-
2 sumer price index’ means ‘price index’ as defined pursuant to
3 section 8331(15) of this title.”.

4 (2) The first increase in pay rates made under section
5 5902 of title 5, United States Code, (as amended by para-
6 graph (1)(B) of this subsection) shall take effect on October 1,
7 1987.

8 **SEC. 1204. USE OF COMPENSATORY TIME OFF.**

9 Section 5544 of title 5, United States Code, is
10 amended—

11 (1) in subsection (a), by inserting “or (if granted
12 under subsection (c) of this section) compensatory
13 time” after “overtime pay” each place it appears; and

14 (2) by adding at the end the following new
15 subsection:

16 “(c) The head of an agency may, on the request of an
17 employee of such agency, grant such employee compensatory
18 time off from his scheduled tour of duty instead of overtime
19 pay for an equal amount of time spent in irregular or occa-
20 sional overtime work.”.

21 **SEC. 1205. JOB PERFORMANCE: APPRAISALS; CONSIDERATION**
22 **FOR WITHIN-GRADE INCREASES.**

23 (a) **PREPARATION OF PERFORMANCE APPRAISALS.—**

24 Section 4302(b) of title 5, United States Code, is amended by

1 inserting “, in a written performance appraisal,” after “eval-
2 uating” in paragraph (3).

3 (b) **WITHIN-GRADE INCREASES.**—(1) Section 5335(a)
4 of title 5, United States Code, is amended by striking out “as
5 determined by the head of the agency.” at the end of sub-
6 paragraph (B) and inserting in lieu thereof “determined on
7 the basis of a current performance appraisal.”.

8 **SEC. 1206. APPROPRIATIONS LIMITATION.**

9 The administration of the provisions of this title and the
10 amendments made by this title shall be to such extent or in
11 such amounts as are provided in appropriations Acts.

12 **TITLE III—FEDERAL EMPLOYEES**
13 **HEALTH BENEFITS**

14 **SEC. 1301. ENTITLEMENT OF UNIFORM PLAN ENROLLEES TO**
15 **ENROLL IN OTHER HEALTH BENEFITS PLANS.**

16 (a) **REPEAL.**—The Retired Federal Employees Health
17 Benefits Act (Public Law 86-724; 74 Stat. 849) is repealed
18 effective 12 months after the date of enactment of this Act.

19 (b) **ENTITLEMENT TO ENROLL.**—(1) Any person en-
20 rolled in a health benefits plan administered pursuant to the
21 Retired Federal Employees Health Benefits Act on the date
22 of enactment of this Act, is entitled to enroll in any health
23 benefits plan administered pursuant to chapter 89 of title 5,
24 United States Code.

1 (2) The Director of the Office of Personnel Management
2 shall—

3 (A) notify each person affected by the provisions
4 of paragraph (1) of the entitlement provided pursuant
5 to such paragraph; and

6 (B) provide a period of open enrollment for such
7 person for a period of 6 months beginning on the date
8 of enactment of this Act.

9 (c) **AUTOMATIC ENROLLMENT OF CERTAIN PER-**
10 **SONS.**—The Director of the Office of Personnel Management
11 shall enroll any person who—

12 (1) is enrolled in a health benefits plan adminis-
13 tered pursuant to the Retired Federal Employees
14 Health Benefits Act on the date of enactment of this
15 Act; and

16 (2) does not enroll in a health benefits plan pursu-
17 ant to the provisions of subsection (b),
18 in the indemnity benefits plan described under section
19 8904(2) of title 5, United States Code.

20 (d) **DEPOSITS IN THE EMPLOYEES HEALTH BENEFITS**
21 **FUND.**—Any money remaining in the Retired Employees
22 Health Benefits Fund established pursuant to section 8 of the
23 Retired Federal Employees Health Benefits Act, after paying
24 all obligations of such Fund, shall be deposited in the Em-

1 ployees Health Benefits Fund established pursuant to section
2 8909 of title 5, United States Code.

3 (e) ADMINISTRATION BY THE DIRECTOR OF THE
4 OFFICE OF PERSONNEL MANAGEMENT.—(1) The Director
5 of the Office of Personnel Management shall administer the
6 provisions of this section to provide that—

7 (A) each person affected by this section shall re-
8 ceive continuous coverage under a health benefits plan;

9 (B) each person who was entitled to a benefit
10 under a health benefits plan administered pursuant to
11 the Retired Federal Employees Health Benefits Act
12 shall be entitled at a minimum to the same benefit, if
13 such person is enrolled in the indemnity benefit plan
14 described under section 8904(2) of title 5, United
15 States Code; and

16 (C) the administration of all the provisions of this
17 section are completed within 12 months after the date
18 of enactment of this Act.

19 (2) The Director of the Office of Personnel Management
20 may enter into such agreements with health benefits carriers
21 under chapter 89 of title 5, United States Code, as are neces-
22 sary to carry out the provisions of this section.

1 SEC. 1302. RE-ENROLLMENT BY CERTAIN ANNUITANTS IN
2 HEALTH BENEFITS PLANS.

3 (a) IN GENERAL.—Any annuitant, as defined under sec-
4 tion 8901(3) of title 5, United States Code, who on the effec-
5 tive date of retirement of such annuitant was eligible to con-
6 tinue enrollment in a health benefits plan under section
7 8905(b) of such title, and who, on the date of enactment of
8 this Act, is not enrolled in a health benefits plan administered
9 pursuant to chapter 89 of such title may re-enroll in any such
10 plan during the period of open enrollment provided pursuant
11 to subsection (b)(2).

12 (2) The provisions of paragraph (1) shall apply to any
13 annuitant whose effective date of retirement occurred before
14 the date of enactment of this Act.

15 (b) NOTIFICATION AND OPEN ENROLLMENT
16 PERIOD.—The Director of the Office of Personnel Manage-
17 ment shall—

18 (1) notify all persons eligible to re-enroll pursuant
19 to the provisions of this section, of such eligibility; and

20 (2) provide for a period of open enrollment for
21 such persons for a period of 6 months beginning on the
22 date of enactment of this Act.

23 (c) RE-ENROLLMENT FEE.—(1) Any annuitant who re-
24 enrolls in a health benefits plan pursuant to the provisions of
25 subsection (a)(1) shall pay a re-enrollment fee as determined

1 by the Director of the Office of Personnel Management pur-
2 suant to paragraph (2).

3 (2) The Director of the Office of Personnel Management
4 shall determine for each annuitant who re-enrolls in a health
5 benefits plan pursuant to the provisions of subsection (a)(1)—

6 (A) the class of individuals who would be affected
7 by an increase in premium payments to provide for
8 coverage to such annuitant through re-enrollment; and

9 (B) a re-enrollment fee to be paid by such annui-
10 tant at the time of re-enrollment to offset such antici-
11 pated increase determined under subparagraph (A).

12 (3) The Director of the Office of Personnel Management
13 shall deposit all re-enrollment fees paid pursuant to para-
14 graph (2)(B) in the Employees Health Benefits Fund estab-
15 lished under section 8909 of title 5, United States Code.

16 (d) ADMINISTRATION.—The Director of the Office of
17 Personnel Management may enter into such agreements with
18 health benefits carriers under chapter 89 of title 5, United
19 States Code, as are necessary to carry out the provisions of
20 this section.

21 **SEC. 1303. DEFERRED ANNUITANTS ENROLLMENT FOR SELF**
22 **ONLY COVERAGE FROM SELF AND FAMILY**
23 **COVERAGE IN CERTAIN CASES.**

24 Section 8905 of title 5, United States Code, is amended
25 by adding at the end thereof the following new subsection:

1 “(g) Notwithstanding any other provision of this chap-
2 ter, a person who is entitled to a deferred annuity under
3 chapter 83 or 84 of this title or any other retirement system
4 for Federal Government employees, and is covered under this
5 chapter by a self and family enrollment of another employee
6 or annuitant, may enroll for self only in a health benefits plan
7 under this chapter, if such other employee or annuitant
8 changes such coverage to self only. The annuitant entitled to
9 a deferred annuity may not enroll for self and family
10 coverage.”.

11 **SEC. 1304. INFORMATION FOR EMPLOYEES AND ANNUITANTS**
12 **TO MAKE CHOICES.**

13 Section 8907(b) of title 5, United States Code, is
14 amended—

15 (1) in paragraph (2) by striking out “and” at the
16 end thereof;

17 (2) in paragraph (3) by striking out the period at
18 the end thereof and inserting in lieu thereof a semi-
19 colon and “and”; and

20 (3) by adding at the end thereof the following new
21 paragraph:

22 “(4) other information that employees and annu-
23 itants need in order to make an informed enrollment
24 choice including claim processing time of plans offered
25 under section 8903 (1), (2), and (3), and any other in-

1 formation that the Director of the Office of Personnel
2 Management determines may help to better inform em-
3 ployees and annuitants for the purpose of making such
4 choice.”.

5 **SEC. 1305. REQUIREMENT OF CARRIERS TO SUPPLY CERTAIN**
6 **INFORMATION.**

7 Section 8910(b) of title 5, United States Code, is
8 amended—

9 (1) in paragraph (1) by striking out the semicolon
10 and “and” at the end thereof and inserting in lieu
11 thereof “, including the time required to process claims
12 and issue claim payments;”;

13 (2) in paragraph (2) by striking out the period and
14 inserting in lieu thereof a semicolon and “and”; and

15 (3) by adding at the end thereof the following new
16 paragraph:

17 “(3) the justification for the manner that the carri-
18 ers determine medical charge levels to be usual, cus-
19 tomary, or reasonable.”.

20 **SEC. 1306. STUDY AND REPORT BY THE DIRECTOR OF THE**
21 **OFFICE OF PERSONNEL MANAGEMENT.**

22 Within 180 days after the date of enactment of this Act,
23 the Director of the Office of Personnel Management shall
24 conduct a study and report to Congress on the feasibility of
25 providing an enrollment category for an individual and the

1 spouse of such individual only (to be designated as "self and
2 spouse only") for the health benefits plans administered pur-
3 suant to chapter 89 of title 5, United States Code.

4 **SEC. 1307. SEQUENTIAL PAYMENTS OF HEALTH BENEFITS**
5 **FOR ANNUITANTS.**

6 (a) **SEQUENTIAL PAYMENTS.**—Chapter 89 of title 5,
7 United States Code, is amended by inserting after section
8 8909 the following new section:

9 **"§ 8909a. Sequential payments of health benefits for**
10 **annuitants**

11 "If an annuitant is covered by a health benefits plan
12 offered by a carrier under this chapter and by any other
13 health benefits plan provided in an insurance policy or con-
14 tract, medical or hospital service agreement, membership or
15 subscription contract, or similar arrangement, any claim for
16 the payment of health benefits submitted to that carrier by or
17 on behalf of that annuitant shall be paid as follows:

18 "(1) The carrier shall—

19 "(A) make any payment required under the
20 plan offered by that carrier; and

21 "(B) if any portion of the claim is not paid
22 by that carrier, forward the claim to the adminis-
23 trator of the other health benefits plan together
24 with a statement of the amount paid by the carri-

1 er and a detailed description of the items covered
2 by the payment.

3 “(2) The administrator of the other health benefits
4 plan shall—

5 “(A) pay any portion of the unpaid amount
6 of the claim required under that plan; and

7 “(B) notify the annuitant of the amount of
8 the claim paid by that plan, a detailed description
9 of the items covered by the payment, and any
10 unpaid amount of the claim for which the annui-
11 tant is required to arrange payment or other
12 settlement.”.

13 (b) **TECHNICAL AMENDMENT.**—The table of sections
14 for chapter 89 of title 5, United States Code, is amended by
15 inserting after the item relating to section 8909 the
16 following:

“8909a. Sequential payments of health benefits for annuitants.”.

17 **SEC. 1308. SURVIVOR ANNUITY BENEFITS.**

18 (a) **REDUCTION OF ANNUITY FOR SURVIVOR BENEFITS**
19 **NOT RETROACTIVE.**—(1) Chapter 83 of title 5, United
20 States Code, is amended—

21 (A) in subparagraph (C) of paragraph (5) of sec-
22 tion 8339(j) by—

23 (i) striking out the comma and all that fol-
24 lows after “9 months after the date of the remar-

1 riage" in the first sentence of clause (ii) and in-
2 serting in lieu thereof a period;

3 (ii) striking out the second sentence of clause
4 (ii);

5 (iii) striking out clause (iii); and

6 (iv) redesignating clause (iv) as clause (iii);
7 and

8 (B) in paragraph (2) of section 8339(k) by—

9 (i) striking out "(i)" in subparagraph (B);

10 (ii) striking out clause (ii) of subparagraph
11 (B); and

12 (iii) striking out subparagraph (C).

13 (2) Chapter 84 of title 5, United States Code, is
14 amended by—

15 (A) striking out section 8418; and

16 (B) striking out the item relating to section 8418
17 in the table of sections at the beginning of such
18 chapter.

19 (b) **STUDY AND REPORT BY THE COMPTROLLER GEN-**
20 **ERAL.**—Within 180 days after the date of enactment of this
21 Act, the Comptroller General shall conduct a study and
22 submit a report to Congress, including recommendations, on
23 ways to maintain the long-term value of survivor annuities
24 administered pursuant to subchapter III of chapter 83 of title
25 5, United States Code.

